

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

ROBERT G. SAENZ,

Plaintiff,

v.

BRINTON, *et al.*,

Defendants.

Case No. 1:23-cv-01303-KES-BAM (PC)

ORDER CONSTRUING PLAINTIFF'S  
NOTICE REGARDING THIRD AMENDED  
COMPLAINT AS MOTION TO AMEND  
(ECF No. 40)

ORDER GRANTING PLAINTIFF'S MOTION  
TO AMEND  
(ECF No. 40)

**THIRTY (30) DAY DEADLINE**

Plaintiff Robert G. Saenz ("Plaintiff") is a state prisoner appearing *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff's third amended complaint, filed October 15, 2025, is currently pending screening. (ECF No. 38.)

On December 11, 2025, Plaintiff filed a letter to the Court regarding the third amended complaint. (ECF No. 40.) Plaintiff states that in reviewing his copy of the submitted and filed third amended complaint, he noticed that he did not place page numbers on each page, and a few pages are out of order, as drafted. Plaintiff requests that the Court review its copy, and if there are no page numbers, to notify him immediately and he will send a correctly numbered and in order copy. (*Id.*)

The Court construes the letter as a motion to file an amended complaint. Under Rule 15(a) of the Federal Rules of Civil Procedure, a party may amend the party's pleading once as a

1 matter of course at any time before a responsive pleading is served. Otherwise, a party may  
2 amend only by leave of the court or by written consent of the adverse party, and leave shall be  
3 freely given when justice so requires. Fed. R. Civ. P. 15(a). “Rule 15(a) is very liberal and leave  
4 to amend shall be freely given when justice so requires.” *AmerisourceBergen Corp. v. Dialysis West, Inc.*, 465 F.3d 946, 951 (9th Cir. 2006) (citation and quotation omitted). However, courts  
5 “need not grant leave to amend where the amendment: (1) prejudices the opposing party; (2) is  
6 sought in bad faith; (3) produces an undue delay in litigation; or (4) is futile.” *Id.*

8 Having considered the motion and reviewed the October 15, 2025 third amended  
9 complaint, the Court finds no evidence of prejudice, bad faith, undue delay in litigation, or  
10 futility. Plaintiff’s third amended complaint has not yet been screened, and no defendants have  
11 been served or have appeared in this action. Plaintiff’s motion to amend shall be granted, solely  
12 for the purpose of filing a third amended complaint with page numbering and pages in the  
13 correct order. Plaintiff may not change the nature of this suit by adding new, unrelated claims in  
14 his amended complaint. *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007) (no “buckshot”  
15 complaints). Plaintiff is advised that an amended complaint supersedes the original complaint.  
16 *Lacey v. Maricopa Cty.*, 693 F.3d 896, 927 (9th Cir. 2012). Therefore, Plaintiff’s amended  
17 complaint must be “complete in itself without reference to the prior or superseded pleading.”  
18 Local Rule 220. Plaintiff’s amended complaint may not exceed twenty-five (25) pages,  
19 exclusive of exhibits.

20 Once filed, the corrected third amended complaint will be screened in due course.

21 Accordingly, IT IS HEREBY ORDERED as follows:

- 22 1. Plaintiff’s December 11, 2025 notice regarding the third amended complaint, (ECF No.  
23 40), is CONSTRUED as a motion to amend;
- 24 2. Plaintiff’s motion to amend, (ECF No. 40), is GRANTED, solely for the purpose of  
25 filng a third amended complaint with page numbering and pages in the correct  
26 order;
- 27 3. Within **thirty (30) days** from the date of service of this order, Plaintiff shall file a third  
28 amended complaint, as discussed in this order, not to exceed twenty-five (25) pages,

1                   **exclusive of exhibits**; and

2                   4. If Plaintiff fails to file a corrected third amended complaint in compliance with this order,  
3                   the Court will screen the October 15, 2025 third amended complaint as currently filed.

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5                   IT IS SO ORDERED.

6                   Dated: December 16, 2025

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8                   /s/ Barbara A. McAuliffe  
9                   UNITED STATES MAGISTRATE JUDGE

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